

RESOLUTION NO. CA-8-10

RESOLUTION OF THE MAYOR AND CITY COUNCIL TO  
AMEND SECTION 33 OF THE CITY CHARTER ENTITLED  
“COUNTING OF VOTES; RUNOFF ELECTIONS”

WHEREAS, Section 33 of the Charter of the City of Gaithersburg establishes requirements for certifying election results and conducting runoff elections; and

WHEREAS, the City has determined that the requirements established by the City Charter be amended and that the City Charter be amended to delete the reference to Section 30; and

WHEREAS, the amendment of Section 33 of the Charter of the City of Gaithersburg was duly considered by the Mayor and City Council at a public hearing held on November 15, 2010.

NOW, THEREFORE, BE IT RESOLVED, that Section 33 of the City Charter is hereby amended as follows:

Section 1 – That Section 33 of the Charter of the City of Gaithersburg be, and the same is, repealed and reenacted with amendments as follows:

**Sec. 33. - Counting of votes; runoff elections.**

Within forty-eight (48) hours after the closing of the polls, the board of supervisors of elections shall determine the votes cast for each candidate or question and shall certify the results of the election to the city manager, who shall record the results in the records of the council. Subject to the provisions of sections ~~30 and~~ 31 of this Charter, the candidate for mayor with the highest number of votes shall be declared as mayor. The number of candidates for councilmember, corresponding with the number of seats to be filled, with the highest number of votes in the general election, or if required, in a runoff election, shall be declared elected as councilmember, subject to the provisions of sections ~~30 and~~ 31 of this Charter.

When required by the provisions of sections ~~30 and~~ 31 of this Charter or, in the case of a tie in the highest number of votes for mayor or for the last remaining city council position(s), there shall be a runoff election between the candidates so affected to be held not more than fourteen (14) days after the date of the regular election. If the runoff election shall result in a tie, ~~the winner shall be selected by lot.~~ additional runoff elections shall be held until such time as one candidate receives a majority of the votes cast.

Where the election includes an election to fill the remainder of an unexpired term of a councilmember, pursuant to section 35 of the Charter, then the persons receiving the two (2) highest number of votes in April, 1986 and April, 1989 and every four (4) years thereafter, and the persons receiving the three (3) highest number of votes in April, 1988 and April, 1991 and every four (4) years thereafter shall be declared elected to four-year terms and the next highest after them shall be declared elected to the unexpired term or terms as the case may be. If it shall be unclear who is entitled to a four-year term and who to a two-year term because of a tie vote, the winner of the four-year term shall be determined by lot. If the lowest winning total number of votes for councilman shall be tied, the winner shall be determined by a runoff election between the candidates receiving the tie votes to be held not more than fourteen (14) days after the regular election.

Section 2 – BE IT FURTHER RESOLVED that the date of the adoption of this resolution is December 20, 2010, and that the amendment to the Charter of the City of Gaithersburg, as herein adopted, shall be and become effective on February 8, 2011, unless on or before said date a proper petition for referendum of this resolution shall be filed as permitted by law.

Section 3 – BE IT FURTHER RESOLVED that a complete and exact copy of this resolution shall be posted at City Hall, 31 South Summit Avenue, Gaithersburg, Maryland 20877, until January 29, 2011, and a fair summary of the proposed Charter amendment contained in this resolution shall be published in a newspaper of general circulation in the City of Gaithersburg not fewer than four (4) times at weekly intervals before January 29, 2011.

Section 4 – AND BE IT FURTHER RESOLVED that as soon as the Charter amendment hereby enacted shall become effective, either as herein provided or following a referendum, the City shall send or cause to be sent to the Department of Legislative Reference the following information concerning this Charter resolution: (1) the complete text of this resolution; (2) the date of enactment of the Charter amendment; (3) the date of the referendum election, if any; (4) the number of votes cast for or against this resolution whether by the City Council or in a referendum; and (5) the effective date of the Charter amendment contained herein.

ADOPTED by the City Council this 20<sup>th</sup> day of December, 2010.

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SIDNEY A. KATZ, MAYOR and  
President of the Council

THIS IS TO CERTIFY that the foregoing  
Resolution was adopted by the City Council  
in a public meeting assembled on the 20<sup>th</sup>  
day of December, 2010. This Resolution  
will become effective on the 8<sup>th</sup> day of  
February, 2011.

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Angel L. Jones, City Manager